

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

1.11.13

DRAFT

LLS NO. 13-0153.01 Duane Gall x4335

SUNSET BILL

Sunset Process - Senate Business,  
Labor, and Technology Committee

Attach. B

**SHORT TITLE:** "Sunset Bd Of Mortgage Loan Originators"

**DEADLINES:** Finalize by: 23 JAN 2013 File by: 25 JAN 2013

**A BILL FOR AN ACT**

101 CONCERNING CONTINUATION OF THE BOARD OF MORTGAGE LOAN  
102 ORIGINATORS IN THE DIVISION OF REAL ESTATE, AND, IN  
103 CONNECTION THEREWITH, IMPLEMENTING THE  
104 RECOMMENDATIONS OF THE **2012** SUNSET REPORT BY THE  
105 DEPARTMENT OF REGULATORY AGENCIES.

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Sunset Process - Senate Business, Labor, and Technology**

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

**Committee.** The bill implements the recommendations of the sunset review and report on the board of mortgage loan originators (board) by:

- Extending the repeal date of the board for 5 years, until September 1, 2018 (*Recommendation 1, sections 1 and 2*);
- Requiring the board to deny, refuse to renew, or revoke the licenses of persons who commit specified offenses, bringing Colorado's statutes in line with federal law (*Recommendation 2, section 3*);
- Allowing the board to deny, refuse to renew, or revoke the licenses of, or to discipline, persons who commit specified offenses and receive a deferred judgment (*Recommendation 3, sections 3 and 5*);
- Eliminating a self-contradictory provision from current law (*Recommendation 4, section 6*); and
- Clarifying that a mortgage company may act only through individuals who are licensed or in the process of becoming licensed (*Recommendation 5, section 4*).

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 ***Recommendation 1***

3 **SECTION 1.** In Colorado Revised Statutes, 12-61-919, **amend**  
4 (1) as follows:

5 **12-61-919. Repeal of part.** (1) This part 9 is repealed, effective  
6 ~~July 1, 2013~~ SEPTEMBER 1, 2018.

7 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**  
8 (44) introductory portion; **repeal** (44) (p); and **add** (49.5) (e) as follows:

9 **24-34-104. General assembly review of regulatory agencies**  
10 **and functions for termination, continuation, or reestablishment.**

11 (44) The following agencies, functions, or both, ~~shall~~ terminate on July  
12 1, 2013:

13 (p) ~~The licensing of mortgage loan originators and the registration~~  
14 ~~of mortgage companies pursuant to part 9 of article 61 of title 12, C.R.S.;~~

15 (49.5) The following agencies, functions, or both, ~~shall~~ terminate  
16 on September 1, 2018:

(e) THE LICENSING OF MORTGAGE LOAN ORIGINATORS AND THE  
REGISTRATION OF MORTGAGE COMPANIES PURSUANT TO PART 9 OF  
ARTICLE 61 OF TITLE 12, C.R.S.

*Recommendations 2 and 3*

**SECTION 3.** In Colorado Revised Statutes, 12-61-905, **amend**  
(1) (b); **repeal** (1) (g), (1) (h), and (1) (i); and **add** (1.5) as follows:

**12-61-905. Powers and duties of the board.** (1) The board may  
deny an application for a license, refuse to renew, or revoke the license  
of an applicant or licensee who has:

(b) Within the last five years, been convicted of, ~~or~~ pled guilty or  
nolo contendere to, OR ACCEPTED A DEFERRED JUDGMENT FOR, a crime  
involving fraud, deceit, material misrepresentation, theft, or the breach of  
a fiduciary duty, except as otherwise set forth in this part 9;

~~(g) Had a mortgage loan originator license or similar license  
revoked in any jurisdiction; except that a revocation that was  
subsequently formally nullified shall not be deemed a revocation for  
purposes of this section;~~

~~(h) At any time preceding the date of application for a license or  
registration, been convicted of, or pled guilty or nolo contendere to, a  
felony in a domestic, foreign, or military court if the felony involved an  
act of fraud, dishonesty, breach of trust, or money laundering; except that,  
if the individual obtains a pardon of the conviction, the individual shall  
not be deemed convicted for purposes of this paragraph (h);~~

~~(i) Been convicted of, or pled guilty or nolo contendere to, a  
felony within the seven years immediately preceding the date of  
application for a license or registration;~~

(1.5) THE BOARD SHALL DENY AN APPLICATION FOR A LICENSE,

1 REFUSE TO RENEW, OR REVOKE THE LICENSE OF AN APPLICANT OR  
2 LICENSEE WHO HAS:

3 (a) (I) HAD A MORTGAGE LOAN ORIGINATOR LICENSE OR SIMILAR  
4 LICENSE REVOKED IN ANY JURISDICTION.

5 (II) IF A REVOCATION IS SUBSEQUENTLY FORMALLY NULLIFIED, THE  
6 LICENSE IS NOT REVOKED FOR PURPOSES OF THIS PARAGRAPH (a).

7 (b) (I) AT ANY TIME PRECEDING THE DATE OF APPLICATION FOR A  
8 LICENSE, BEEN CONVICTED OF, PLED GUILTY OR NOLO CONTENDERE TO, OR  
9 ACCEPTED A DEFERRED JUDGMENT FOR, A FELONY IN A DOMESTIC,  
10 FOREIGN, OR MILITARY COURT IF THE FELONY INVOLVED AN ACT OF  
11 FRAUD, DISHONESTY, BREACH OF TRUST, OR MONEY LAUNDERING.

12 (II) IF THE INDIVIDUAL OBTAINS A PARDON OF THE CONVICTION,  
13 THE BOARD SHALL NOT DEEM THE INDIVIDUAL CONVICTED FOR PURPOSES  
14 OF THIS PARAGRAPH (b).

15 (c) BEEN CONVICTED OF, PLED GUILTY OR NOLO CONTENDERE TO,  
16 OR ACCEPTED A DEFERRED JUDGMENT FOR, A FELONY WITHIN THE SEVEN  
17 YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR A  
18 LICENSE.

19 ***Recommendation 5***

20 **SECTION 4.** In Colorado Revised Statutes, 12-61-905.1, **amend**  
21 (1) (c) as follows:

22 **12-61-905.1. Powers and duties of the board over mortgage**  
23 **companies - fines - rules.** (1) With respect to mortgage companies, the  
24 board may deny an application for registration; refuse to renew, suspend,  
25 or revoke the registration; enter cease-and-desist orders; and impose fines  
26 as set forth in this section as follows:

27 (c) If the mortgage company employs or ~~acts through~~ CONTRACTS

1 WITH individuals ~~subject to its control~~ who are ~~unlicensed at the time of~~  
2 ~~hire and not in the process of becoming licensed, who are~~ required to be  
3 licensed pursuant to this part 9 ~~or if the mortgage company, after notice,~~  
4 ~~continues to employ or act through individuals subject to its control~~  
5 ~~whose required licenses are not valid~~ AND WHO ARE NOT EITHER:

6 (I) LICENSED; OR

7 (II) IN THE PROCESS OF BECOMING LICENSED; or

8 ***Recommendation 3***

9 **SECTION 5.** In Colorado Revised Statutes, 12-61-905.5, **amend**  
10 (1) (n) as follows:

11 **12-61-905.5. Disciplinary actions - grounds - procedures -**  
12 **rules.** (1) The board, upon its own motion or upon the complaint in  
13 writing of any person, may investigate the activities of any mortgage loan  
14 originator. The board has the power to impose an administrative fine in  
15 accordance with section 12-61-905, deny a license, censure a licensee,  
16 place the licensee on probation and set the terms of probation, order  
17 restitution, order the payment of actual damages, or suspend or revoke a  
18 license when the board finds that the licensee or applicant has performed,  
19 is performing, or is attempting to perform any of the following acts:

20 (n) Conviction of, entering a plea of guilty to, or ~~entering a plea~~  
21 ~~of nolo contendere to,~~ OR ACCEPTING A DEFERRED JUDGMENT FOR, any  
22 crime in article 3 of title 18, C.R.S., in parts 1 to 4 of article 4 of title 18,  
23 C.R.S., in article 5 of title 18, C.R.S., in part 3 of article 8 of title 18,  
24 C.R.S., in article 15 of title 18, C.R.S., in article 17 of title 18, C.R.S., or  
25 any other like crime under Colorado law, federal law, or the laws of other  
26 states. A certified copy of the judgment of a court of competent  
27 jurisdiction of such conviction or other official record indicating that such

1 plea was entered shall be conclusive evidence of such conviction or plea  
2 in any hearing under this part 9.

3 ***Recommendation 4***

4 **SECTION 6.** In Colorado Revised Statutes, 12-61-911, **amend**  
5 (1) (k) and (1) (l); and **repeal** (1) (m) as follows:

6 **12-61-911. Prohibited conduct - fraud - misrepresentation -**  
7 **conflict of interest - rules.** (1) A mortgage loan originator, including a  
8 mortgage loan originator otherwise exempted from this part 9 by section  
9 12-61-904 (1) (b), shall not:

10 (k) Fail to pay a third-party provider, no later than thirty days after  
11 the recording of the loan closing documents or ninety days after  
12 completion of the third-party service, whichever comes first, unless  
13 otherwise agreed or unless the third-party service provider has been  
14 notified in writing that a bona fide dispute exists regarding the  
15 performance or quality of the third-party service; OR

16 (l) Collect, charge, attempt to collect or charge, or use or propose  
17 any agreement purporting to collect or charge any fee prohibited by  
18 section 12-61-914 or 12-61-915. ~~or~~

19 ~~(m) Fail to comply with any provision of this part 9 or any rule~~  
20 ~~adopted pursuant to this part 9.~~

21 **SECTION 7. Effective date.** This act takes effect July 1, 2013.

22 **SECTION 8. Safety clause.** The general assembly hereby finds,  
23 determines, and declares that this act is necessary for the immediate  
24 preservation of the public peace, health, and safety.